

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Gordon Franklin, Jr.,

Civ. No. 22-3065 (JWB/LIB)

Petitioner,

v.

ORDER

Steve Kallis,

Respondent.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Leo I. Brisbois dated January 13, 2023. Petitioner Gordon Franklin, Jr. filed an objection to that Report and Recommendation in the time period permitted.¹ Based on the Report and Recommendation of the Magistrate Judge, on all of the files, records, and proceedings herein, the Court now makes and enters the following Order.

IT IS HEREBY ORDERED that:

1. The Report and Recommendation (Doc. No. 7) is **ACCEPTED**;
2. This action is **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

¹ On January 27, 2023, Petitioner filed a letter opposing the Report and Recommendation, which the Court construes as an objection to the Report and Recommendation. (Doc. No. 8.) To the extent that Petitioner intended to file the letter as a motion to reopen and reinstate, the Court denies the motion as this case had not yet been dismissed.

3. Petitioner's letter filed on January 27, 2023 (Doc. No. 8), is construed as an objection to the Report and Recommendation. To the extent that Petitioner intended to file the letter as a motion to reopen and reinstate, that motion is **DENIED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: February 2, 2023

s/ Jerry W. Blackwell

Jerry W. Blackwell
United States District Judge